

This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 7, 2005.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(62) to read as follows:

##### § 52.1370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(62) Revisions to State Implementation Plan were submitted by the State of Montana on August 25, 2004. The revisions correct internal references to state documents; correct references to, or update citations of, Federal documents; and make minor editorial changes.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections: ARM 17.8.130; 17.8.320(9); 17.8.801(22); 17.8.819; and 17.8.822, effective April 9, 2004.

[FR Doc. 06-633 Filed 1-23-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2005-CO-0002; FRL-8010-2]

#### Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving a State Implementation Plan (SIP) revision submitted by the Governor of Colorado with a letter dated March 24, 2005. This revision updates the Long-Term Strategy of the Visibility SIP to establish strategies, activities, and monitoring plans that constitute reasonable progress toward the National visibility goal. This action is being taken under section 110 of the Clean Air Act.

**DATES:** This rule is effective on March 27, 2006 without further notice, unless EPA receives adverse comment by February 23, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. R08-OAR-2005-CO-0002, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://docket.epa.gov/rmepub/>. On November 28, 2005, Regional Material in EDOCKET (RME), EPA's electronic public docket and comment system, was replaced by an enhanced Federal-wide electronic docket management and comment system located at <http://www.regulations.gov>. Therefore, you will be redirected to that site to access the docket EPA-R08-OAR-2005-CO-0002 and submit comments. Follow the on-line instructions for submitting comments.

- E-mail: [long.richard@epa.gov](mailto:long.richard@epa.gov) and [platt.amy@epa.gov](mailto:platt.amy@epa.gov).

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8,

Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466.

- Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. R08-OAR-2005-CO-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available at <http://docket.epa.gov/rmepub/index.jsp>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://regulations.gov), or e-mail. The EPA's Regional Materials in EDOCKET and Federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through EDOCKET or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available,

*i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Amy Platt, Environmental Protection Agency, Region 8, (303) 312–6449, [platt.amy@epa.gov](mailto:platt.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. General Information
- II. Background
- III. March 24, 2005 Submittal
- IV. Section 110(l)
- V. Final Action
- VI. Statutory and Executive Order Reviews

**Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The word *Act* or initials *CAA* mean the Clean Air Act, unless the context indicates otherwise.
- (ii) The word *we* or initials *EPA* mean the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean State Implementation Plan.
- (iv) The word *State* or initials *CO* mean the State of Colorado, unless the context indicates otherwise.
- (v) The initials *FLM* mean Federal Land Manager.

**I. General Information**

*A. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through Regional Materials in EDOCKET, [regulations.gov](http://regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information

claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

**II. Background**

Section 169A of the Clean Air Act (CAA),<sup>1</sup> 42 U.S.C. 7491, establishes as a National goal the prevention of any future, and the remedying of any existing, anthropogenic visibility impairment in mandatory Class I Federal areas<sup>2</sup> (referred to herein as the “National goal” or “National visibility goal”). Section 169A called for EPA to, among other things, issue regulations to assure reasonable progress toward meeting the National visibility goal, including requiring each State with a mandatory Class I Federal area to revise its SIP to contain such emission limits, schedules of compliance and other measures as may be necessary to make

<sup>1</sup> The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

<sup>2</sup> Mandatory class I Federal areas include international parks, national wilderness areas, and national memorial parks greater than five thousand acres in size, and national parks greater than six thousand acres in size, as described in section 162(a) of the Act (42 U.S.C. 7472(a)). Each mandatory Class I Federal area is the responsibility of a “Federal land manager” (FLM), the Secretary of the department with authority over such lands. See section 302(i) of the Act, 42 U.S.C. 7602(i).

reasonable progress toward meeting the National goal (see CAA section 169A(b)(2)). Section 110(a)(2)(f) of the CAA, 42 U.S.C. 7410(a)(2)(f), similarly requires SIPs to meet the visibility protection requirements of the CAA.

We promulgated regulations that required affected States to, among other things, (1) coordinate development of SIPs with appropriate FLMs; (2) develop a program to assess and remedy visibility impairment from new and existing sources; and (3) develop a long-term (10–15 years) strategy to assure reasonable progress toward the National visibility goal. See 45 FR 80084, December 2, 1980 (codified at 40 CFR 51.300–51.307). The regulations provide for the remedying of visibility impairment that is reasonably attributable to a single existing stationary facility or small group of existing stationary facilities. These regulations require that the SIPs provide for periodic review, and revision as appropriate, of the Long-Term Strategy not less frequently than every three years, that the review process include consultation with the appropriate FLMs, and that the State provide a report to the public and EPA that includes an assessment of the State’s progress toward the National visibility goal. See 40 CFR 51.306(c).

On July 12, 1985 (50 FR 28544) and November 24, 1987 (52 FR 45132), we disapproved the SIPs of states, including Colorado, that failed to comply with the requirements of the provisions of 40 CFR 51.302 (visibility general plan requirements), 51.305 (visibility monitoring), and 51.306 (visibility long-term strategy). We also incorporated corresponding Federal plans and regulations into the SIPs of these states pursuant to section 110(c)(1) of the CAA, 42 U.S.C. 7410(c)(1).

The Governor of Colorado submitted a SIP revision for visibility protection on December 21, 1987, which met the criteria of 40 CFR 51.302, 51.305, and 51.306 for general plan requirements, monitoring strategy, and long-term strategies. We approved this SIP revision in the August 12, 1988 **Federal Register** (53 FR 30428), and this revision replaced the Federal plans and regulations in the Colorado Visibility SIP. The Governor of Colorado submitted a subsequent SIP revision for visibility protection with a letter dated November 18, 1992, which we approved on October 11, 1994 (59 FR 51376).

After Colorado’s 1992 Long-Term Strategy review, the U.S. Forest Service (USFS) certified visibility impairment at Mt. Zirkel Wilderness Area (MZWA) and named the Hayden and Craig generating stations in the Yampa Valley

of Northwest Colorado as suspected sources. The USFS is the FLM for MZWA. This certification was issued on July 14, 1993. Emissions from the Hayden Station were addressed in the State's August 23, 1996 Long-Term Strategy review and revision (see 62 FR 2305, January 16, 1997). Emissions from the Craig Generating Station were addressed in the State's April 19, 2001 Long-Term Strategy review and revision (see 66 FR 35374, July 5, 2001).

The State conducted its next complete periodic review and revision of the long-term strategy in 2002. With an April 12, 2004, letter, the Governor of Colorado submitted that revision to the Long-Term Strategy of Colorado's SIP for Class I Visibility Protection, which we approved on August 1, 2005 (70 FR 44052).

### III. March 24, 2005 Submittal

With a March 24, 2005 letter, the Governor of Colorado submitted a revision to the Long-Term Strategy of Colorado's SIP for Class I Visibility Protection, contained in Part II of the November 18, 2004 document entitled "Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection." This revision was made to fulfill the requirements to periodically review and, as appropriate, revise the Long-Term Strategy.

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

After providing adequate notice, the Colorado Air Quality Control Commission (AQCC) held a public hearing on November 18, 2004 to consider the proposed revision to the Long-Term Strategy of the Colorado Visibility SIP and adopted the revision. We have reviewed the SIP revision and have determined that it adequately demonstrates that the State is making reasonable progress toward the National visibility goal.

The SIP revision is contained in Part II of the November 18, 2004 document entitled "Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection." Part II, "Revision of the Long-Term Strategy,"

incorporates by reference requirements for the Hayden and Craig Generating Stations, including emissions limits and schedules of compliance, as previously approved by EPA on January 16, 1997 (see 62 FR 2305) and July 5, 2001 (see 66 FR 35374). Part II also contains provisions that are explanatory and analyses that are required by section 169A of the CAA, Federal visibility regulations (40 CFR 51.300 to 51.307), and/or the Colorado Visibility SIP. These requirements address existing impairment, ongoing air pollution programs, smoke management practices, prevention of future impairment, and FLM consultation and communication. These revisions are consistent with Federal requirements and demonstrate reasonable further progress toward the National visibility goal as required by 40 CFR 51.306. Therefore, they are approvable.

In addition, Appendix B of Part II of the November 18, 2004 document entitled "Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection," contains an update of section XIV, Visibility, of Part D of the Colorado Air Quality Control Commission Regulation No. 3 (Stationary Source Permitting and Air Pollutant Emission Notice Requirements). Although this section has not changed substantively since it was last incorporated into the Visibility SIP (see 53 FR 30431, August 12, 1988, and 59 FR 51379, October 11, 1994), it has been recodified. Therefore, for clarification purposes, we are also approving this recodified version of the State's visibility regulations in order to update the version incorporated into the Visibility SIP.

### V. Section 110(l)

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. The Colorado SIP revisions that are the subject of this document are consistent with Federal requirements and rules. These revisions were made to demonstrate reasonable further progress toward the National visibility goal, as required by the Act. They do not interfere with the attainment or maintenance of the NAAQS or other applicable requirements of the Act.

### VI. Final Action

We have reviewed the adequacy of the State's revision to the Long-Term Strategy of Colorado's SIP for Class I Visibility Protection, contained in Part II of the November 18, 2004 document entitled "Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection," as submitted by the Governor with a letter dated March 24, 2005. We are approving the revision as demonstrating reasonable further progress toward the National visibility goal as required by 40 CFR 51.306.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective March 27, 2006 without further notice unless the Agency receives adverse comments by February 23, 2006. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility

Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 7, 2005.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(108) to read as follows:

##### § 52.320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(108) Revisions to the Long-Term Strategy of Colorado's State Implementation Plan for Class I Visibility Protection (Visibility SIP), as submitted by the Governor on March 24, 2005. The revisions update strategies, activities, and monitoring plans that constitute reasonable progress toward the National visibility goal.

(i) Incorporation by reference.

(A) "Revision of the Long-Term Strategy", Part II of the November 18, 2004 document entitled "Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection," effective November 18, 2004.

(B) Colorado Air Quality Control Commission Regulation No. 3, "Stationary Source Permitting and Air Pollutant Emission Notice Requirements", 5 CCR 1001-5, Part D, Section XIV, Visibility, Subsections A through F, effective April 16, 2004.

[FR Doc. 06-630 Filed 1-23-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 60

[EPA-R08-OAR-2004-MT-0001, FRL-8012-9]

### Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana; New Source Performance Standards for Montana; Final Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Montana on August 20, 2003, except for revisions to three rules that EPA will act on at a later date. The revisions modify definitions and references to federal regulations and other materials in the Administrative Rules of Montana. The intended effect of this action is to make federally enforceable those provisions that EPA is approving. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective February 23, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2004-MT-0001. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through